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June 30, 2010

By fax to 202-219-3923 and by mail

General Counsel's Office
Attn: Jeff S. Jordan, Esquire
Supervisory Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 6296: Response of Campaign for Liberty to Complaint

Dear Sirs:

This firm represents Campaign for Liberty in the above-referenced matter. By letter dated May 26, 2010, and received by our client on June 1, 2010, you notified our client that the Federal Election Commission ("FEC") had received a letter complaint alleging that Campaign for Liberty may have violated the Federal Election Campaign Act of 1971 ("FECA"), and you invited our client's response within 15 days of the receipt of your letter.

On June 10, 2010, we faxed and mailed you the Statement of Designation of Counsel, signed by John Tate as President of Campaign for Liberty, designating the undersigned and William J. Olson of this office as counsel in this matter, in accordance with your instructions, and we asked for an extension of time of two weeks within which to submit this response, making the response due on or before June 30, 2010. Thank you for granting that extension in your letter of June 10, 2010.

This letter, accompanied by the Declaration of John Tate, President of Campaign for Liberty, constitutes the response of Campaign for Liberty to the letter complaint.

Confidentiality

Please be advised that our client does not waive confidentiality, and wishes this matter to remain confidential, in accordance with 2 U.S.C. sections 437g(a)(4)(B) and 437g(a)(12)(A).

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The Complaint

MUR 6296 was instituted by the FEC following the filing of a letter complaint ("Complaint"), dated May 18, 2010, by Charles R. Grice Jr., [redacted], Aurora, Colorado. Accompanying the Complaint were a number of exhibits, labeled A through L. The Complaint alleges violation of FECA by a number of individuals and entities — including Campaign for Liberty (also referred to as "CFL") — in connection with the campaign for a U.S. Senate seat from Colorado of candidate Kenneth R. Buck.

The Complaint charges three incorporated respondents — Americans for Job Security ((also referred to as "AJS")), Declaration Alliance (also referred to as "DL"), and CFL — with having received funds "funneled" to them by Hensel Phelps Construction Company and/or Jerry L. Morgensen, alleged in the Complaint to be a federal government corporate contractor and its chief executive officer ("CEO"), respectively, "and/or other individuals who have contributed in excess of the maximum allowable contribution limit of \$2,400 per individual" (Complaint, p. 3), and having spent such funds on television ad campaigns attacking one or more of Buck's potential primary opponents, or for television ad campaign and campaign literature promoting Buck for the U.S. Senate.

The complaint alleges broadly that contributions to CFL, AJS and DL constituted impermissible coordinated campaign expenditures and were contributions in excess of the FEC limits. See Complaint, pp. 3-6. Nevertheless, the only allegations in the Complaint referencing CFL are set forth on pages 3 and 4 of the Complaint, as follows:

Just before that, in January 2010, intending to benefit Buck and the Buck Committee and, upon information and belief, with the involvement of John Hoteling, Campaign for Liberty used funds funneled to it by Hensel Phelps and/or Morgensen and/or other individuals who have contributed in excess of the maximum allowable contribution limit of \$2,400 per individual to spend approximately \$329,000 on a television ad campaign attacking one of Buck's potential primary opponents. See attached Exhibit J. [Complaint, p. 3, emphasis added.]

As is clear from the foregoing, the ... Campaign for Liberty ... television ad buys made for the benefit of Buck and the Buck Committee ... were financed, upon information and belief, by Morgensen, Hensel Phelps, other contributors, Cache Banks and Trust, Greeley CO, and/or Mrs Buck.... As such, these contributions constitute contributions in excess of the permissible FEC limits, impermissible coordinated campaign expenditures and prohibited corporate contributions by a major federal

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government contractor and/or a regulated banking institution.
[Complaint, p. 4, *emphasis added*.]

Analysis of Allegations Against Campaign for Liberty.

The complaint alleges the CFL ad constituted "impermissible coordinated communications and prohibited contributions" (Complaint, p. 4), implies that the CFL ad was a campaign ad, and then alleges "apparent cooperation" between Campaign for Liberty, "and Buck and the Buck Committee" (Complaint, p. 5). However, the Complaint is devoid of any facts that would warrant a conclusion either that the CFL ad was a campaign ad, or that there was any coordination whatsoever between Campaign for Liberty and Buck or the Buck Campaign.¹

The attached Declaration of John Tate supports the fact that the ad was an issue ad, and there was no such coordination. Mr. Tate, who personally was involved in approving, creating, and producing the CFL issue ad evidenced by Exhibit J to the Complaint (see John Tate Declaration, ¶ 4), has declared that CFL had no involvement with the persons and entities alleged to have been its coordinators in the Complaint. See John Tate Declaration, ¶¶ 5, 6 and 7. The allegations in the Complaint — which are made upon supposed and unexplained "information and belief" — are spurious concoctions that have no apparent factual basis whatsoever and are expressly denied by Campaign for Liberty.

The complaint alleges several violations of the FECA and related FEC regulations by the other Respondents referred to above — Kenneth R. Buck, Buck for Colorado, Declaration Alliance, Americans for Job Security, Jerry L. Morgensen, Hensel Phelps Construction Co., and Perry L. Buck. As the attached Declaration of John Tate reveals, Campaign for Liberty had no dealings with any of those individuals or entities in connection the ad that it sponsored in January 2010, attached as Exhibit J to the Complaint. See John Tate Declaration, ¶¶ 5, 6 and 7. The ad sponsored by Campaign for Liberty was conceived of, designed, and produced by Campaign for Liberty, without any communication to, or coordination with, or funding by Kenneth R. Buck or the Buck Committee, or any agent acting on their behalf. See John Tate Declaration, ¶¶ 4-7.

¹ The Complaint's lack of specificity with respect to the supposed coordination between CFL and the Buck Committee can be contrasted with the allegations of coordination against AJS. See Complaint, pp. 3 and 4. The Complaint, at pages 5-6, asserts specific facts about AJS and the Buck Committee — and then inexplicably lumps Campaign for Liberty into the mix, concluding that the television ad expenditures of Campaign for Liberty "constitute impermissible in-kind contributions to Buck and the Buck Committee" Complaint, p. 6

Request for Dismissal

The Complaint makes general allegations against Campaign for Liberty "upon information and belief" (*see* Complaint, pp. 3, 4), but these allegations are disproved expressly by the Declaration of John Tate, the president of Campaign for Liberty — and those allegations of the Complaint provide no basis for proceeding against Campaign for Liberty in this MUR.

Accordingly, Campaign for Liberty respectfully requests the dismissal of the Complaint against it, with no action being recommended against or taken against Campaign for Liberty. *See* 11 CFR 111.5(b).

Sincerely yours,


John S. Miles

JSM:mm
Enclosure

cc: John Tate, President
Campaign for Liberty

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